

**Existing Regulations 18531.6 and 18531.61**

**§ 18531.6. Treatment of Debts Outstanding After an Election – Prior to January 24, 2004.**

The provisions of this regulation apply to contributions accepted by a committee prior to January 24, 2004. For rules regarding the treatment of contributions accepted on or after January 24, 2004, see regulation 18531.61.

(a) Pre-2001 Elections. Government Code section 85316 does not apply to a candidate for elective state office in an election held prior to January 1, 2001.

(1) There are no contribution limits in effect for elections held prior to January 1, 2001 for contributions made on or after January 1, 2001.

(2) Contributions for an election held prior to January 1, 2001 may be accepted in an amount that exceeds net debts outstanding.

(b) 2001 and Subsequent Elections. Government Code section 85316 applies to a candidate for elective state office in an election held on or after January 1, 2001, as follows:

(1) The contribution limits of Government Code sections 85301 and 85302 apply to any candidate controlled committee formed on or after January 1, 2001, whether the committee is designated for an election held pre- or post-January 1, 2001.

(2) Beginning January 1, 2001, contributions received by any candidate controlled committee formed prior to January 1, 2001, for an election held after January 1, 2001, are subject to the limits of Government Code sections 85301 and 85302.

(3) Transfers to a committee formed for an election held on or after January 1, 2001, are subject to the requirements of 2 Cal. Code Regs. section 18536.

(c) A candidate for elective state office subject to subdivision (b) of this regulation may use contributions accepted pursuant to Government Code section 85316 only for payment of net debts outstanding for an election.

(d) For purposes of this section, "net debts outstanding" includes the following:

(1) An amount necessary to cover the cost of raising funds as permitted under this section;

(2) Any costs associated with complying with the post-election requirements of this Title and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries, and office supplies; and

(3) The total amount of unpaid debts, loans and accrued expenditures incurred with respect to an election, less the sum of:

(A) The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value; and

(B) The total amounts owed to the candidate controlled committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectibility of those credits, refunds, returns, or receivables.

The amount of the net debts outstanding shall be reduced as additional funds are received. The candidate and his or her controlled committee(s) may accept contributions made after the date of an election, if such contributions do not exceed the amount of net debts outstanding on the date the contribution is received. Any contribution that exceeds the amount of net debts outstanding shall be treated in the same manner as a contribution in excess of the

contribution limits.

(e) Notwithstanding subdivision (b), this regulation does not apply to a candidate for statewide elective office in an election held before November 6, 2002.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83 of Proposition 34; and Sections 85201, 85301-85302, 85306, 85316, 85317, 85318 and 85321, Government Code.

#### HISTORY

1. New section filed 10-4-2001; operative 11-3-2001 (Register 2001, No. 40).
2. Editorial correction of subsection (b)(2) (Register 2001, No. 48).
3. Amendment of section heading and new first paragraph filed 1-23-2004 as an emergency; operative 1-24-2004. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2004, No. 4). A Certificate of Compliance must be transmitted to OAL by 5-24-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1-23-2004 order transmitted to OAL 4-16-2004 and filed 5-13-2004 (Register 2004, No. 20).

**§ 18531.61. Treatment of Debts Outstanding After an Election – Contributions Accepted on or After January 24, 2004.**

(a) As of January 24, 2004, a contribution for an election, regardless of when held, may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election. For purposes of section 85316, "the applicable contribution limit for that election" means the contribution limits, if any, as provided in Government Code sections 85301 and 85302 applicable on the date of the election.

(b) Transfers to a committee formed for an election held on or after January 1, 2001, or November 6, 2002, for statewide elective office, are subject to the requirements of 2 Cal. Code Regs. section 18536.

(c) A candidate for elective state office subject to subdivision (a) of this regulation may use contributions accepted pursuant to Government Code sections 85316 and 85321 only for payment of net debts outstanding for an election.

(d) For purposes of this section, "net debts outstanding" includes the following:

(1) An amount necessary to cover the cost of raising funds as permitted under this section;

(2) Any costs associated with complying with the post-election requirements of this Title and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries, and office supplies; and

(3) The total amount of unpaid debts, loans and accrued expenditures incurred with respect to an election, less the sum of:

(A) The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value; and

(B) The total amounts owed to the candidate controlled committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectibility of those credits, refunds, returns, or receivables.

The amount of the net debts outstanding shall be reduced as additional funds are received. The candidates and his or her controlled committee(s) may accept contributions made after the date of an election, if such contributions do not exceed the amount of net debts outstanding on the date the contribution is received. Any contribution that exceeds the amount of net debts outstanding shall be treated in the same manner as a contribution in excess of the contribution limits.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83 of Proposition 34; and Sections 85201, 85301, 85302, 85306, 85316, 85317, 85318 and 85321, Government Code.

**HISTORY**

1. New section filed 1-23-2004 as an emergency; operative 1-24-2004. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2004, No. 4). A Certificate of Compliance must be transmitted to OAL by 5-24-2004 or emergency language will be repealed by operation of law on the following day.

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